

4: Grajdanzev--162

S-4

(no date) 1942

Formosans

Japan

116, 563, 642, 177.64

636.64

"The officials of the Japanese Empire are divided into three groups--chokunin, appointed by the Emperor, sonin, highest officials, appointed with the Emperor's approval and hannin, lower officials, for whom the sanction of the Emperor is not necessary. In the government-general there were in 1938 7 chokunin officials, 119 of sonin rank, and 648 of hannin rank, while in the provinces and districts five persons were of chokunin rank, 94 of sonin and 1,523 of hannin.

These numerous high officials are exclusively Japanese and in the counties and municipalities there are hundreds more. Lower positions are occupied not only by Japanese, but also by Chinese, but as it is pointed out in Sekai nenkan, 'from the political point of view all administrative organisations are almost exclusively (hotondo zembunga) staffed with Japanese, while from the economic point of view everything is under the domination of the Japanese economy' (1).

1. P. 179."

4:Grajdanzev--163

S-4

(no date) 1942

Formosans

116, 625, 642, 177.64

Japan

636.64

"Since the mayor and half the members of the Council are appointed by the government, since the mayor and all higher officials have the right to reject the decisions of the councils, since the provincial councils are appointed or elected indirectly and since the advisory council to the governor-general is appointed directly, we may say that after forty-five years of Japanese rule, Taiwan is a colony in the government of which the islanders have no voice whatsoever and in which the Japanese themselves as citizens have little or no influence. The island is ruled by the governor-general with the help of the army and police."

~~AD 1~~

AD 1

186 too anxious for complete independence; at any
178 rate, not before they can successfully defend the
island against aggression.

C. Toward the Government:

186 Except an insignificant number of aborigines
142 the Formosans are Chinese or of Chinese descent.
Even under Japanese rule, they never forgot their
own national origin. Poetry and songs composed
during that period were replete with reminiscences
of their mother country. That is why in 1945,
the Formosan Chinese were overwhelmed with
joy at the prospect of the island's being returned
to Chinese rule after half a century of Japanese
colonial dominance. But their enthusiasm was
dampened by the abuses of Chen Yi's administration.
The Nationalist government after 1949 made
a determined effort to win back popular support.
Economic reconstruction has been vigorously
pushed forward to enable the island to achieve
self-sufficiency and stability. Large government
corporations have been converted to private firms
and turned over to the local people. The political
basis of the provincial government has been
altered to permit increasing participation by
Formosans.

In spite of the special concessions granted
by the Nationalist Government in the past five years
some Formosans, according to the sentiment expressed
in the Provincial Assembly, complain that they have
not been making as much headway politically as they
would like. Others are not happy because the popularly
elected mayors and magistrates do not have full
authority in the settlement

186
642 of local affairs, since governments on the local level as provided by the Chinese Constitution exercise only those powers delegated to them by the central government. There is also the complaint, though not necessarily substantiated by fact, that the "elected Formosans often held office in name only and that Kuomintang men appointed under them held the real power."¹⁵ To remedy such complaints and to make the Formosans more enthusiastic about self-government, two measures may be desirable: (a) extension of the powers of the Provincial Assembly, and (b) selection of personnel for top provincial posts, including that of the governor, by popular suffrage.

642
433 To gain more support from Formosans, the Nationalist government must also seek to improve further their economic well-being. Although the general industrial level has risen forty per cent above the Japanese peak year of 1941, neither in agriculture nor in industry have the gains kept pace with the increasing population. The per capita production is still below that of the Japanese period. Moreover, the rising cost of living has made the economic life of the island unstable. With American aid, the Nationalist Government has been trying to step up the industrial production of the island, but the prospect of arresting inflation is not very bright.

15. Preston Schoyer, "Present Conditions on the Island," The Reporter, Vol. 12, March 10, 1955, p. 18.

~~AD 1~~

AD1

• 642
433

For the main cause of inflation is the huge deficit in the national budget, which is strained by nearly one million men in the armed forces.

701

The upkeep of such a huge military force accounts for the most crucial question raised by political observers: are the Formosan people willingly supporting the military program of the government? Contrary to speculation, the answer is affirmative. Foreign visitors are practically unanimous in stating the lack of interest among the Formosans in the liberation of the Mainland. This is true although such sentiment has not been openly expressed as the result of the rigid government control of all media of public expression. Nevertheless, another facet of the question, the need of a strong military force to defend the island, has never been debated. The farmer in Formosa now owns the land he cultivates, however small the acreage, and enjoys the fruits of his own labor. He certainly does not cherish the prospect of being chained to a collective farm, and laboring under the whip of political cadres. The industrial developments of recent years have provided opportunities for an increasing number of people and given rise to a new business and industrial class. The Formosans are both resourceful and industrious. They will be loath to see their prosperous land overrun by Communism, suffer deprivations similar to those found on the Mainland. It is quite certain that Formosans will resist Communist aggression, and that they will defend the offshore islands too. The best evidence of the unequivocal support of the Formosans to the government is the response of young Formosans

701 to military call. Up to now, 90,000 Formosans have been drafted into the army to replace aging Nationalist veterans.¹⁶

648 It seems clear that the Formosans do not
642 have much sympathy for the Communists, although
● they realize that there is little prospect of their island becoming really independent. They also realize that, as more and more of them are being absorbed into the government and as the Mainlanders are aging, it is only a matter of time before they will win full control of the island.¹⁷ They may differ with the Government in regard to its policy of liberating the Mainland, but they take comfort in President Chiang's assurance that it would not take place yet for some years. As more and more Formosans are inducted into the armed forces, more changes will take place in the Nationalist overall policy for the island. The principal aspirations of the Formosans at this moment are: more self-government, greater freedom of expression, and greater economic security. Their immediate apprehension is a runaway inflation. They are fearful that the Nationalist Government might plunge the island into bankruptcy, as it did on the Mainland in the years following the war, paving the way for Communist conquest.

16. Time, op. cit., p. 34. 72,000 young Formosans were drafted from February to July 1955.

17. Manchester Guardian, Vol. 78, No. 13, Sept. 29, 1955, p. 14.

Annex "A," Subparagraph 2a,
Political Background

CONSTITUTIONAL SYSTEM

642 The Republic of China, which overthrew the Manchu Dynasty, was founded on January 1, 1912, after a successful revolution led by Dr. Sun Yat-sen. Due to the lack of a democratic tradition among the people, no constitutional government followed. The country was torn asunder by ambitious warlords, who waged incessant wars among themselves. National unity was not restored until 1928 when a new government, under Chiang Kai-shek, successor to Sun Yat-sen as leader of the Kuomintang, was established in Nanking and supported by the country as a whole. Dr. Sun Yat-sen laid down a program of political reconstruction for the guidance of his followers,¹ advocating that, following the unification of the country by military success, there should be an interim period of political tutelage in preparation for constitutional democracy.

1. Sun Yat-sen, Fundamentals of National Reconstruction (English translation), Taipei, China Cultural Service, reprint, 1952, p. 20.

642 During the interim period, the Kuomintang should assume the role of a tutor, directing the national policy and training the people in democratic ways.² Accordingly, the Nationalist Government was organized by the representatives of the Kuominantg. But, since it followed closely the pattern conceived by Dr. Sun with regard to the division of powers, the structure of the government did not differ materially from the present government under the new constitution. In 1932 the Central Executive Committee of the Kuomintang passed a resolution, prescribing twenty-five principles, on the basis of which the Legislative Yuan was to draw up a draft constitution. A preliminary draft was completed on March 1, 1934, and the final draft, the "May 5th Draft Constitution," was promulgated by the National Government in 1936. Another plenary

2. During the period of political tutelage, the National Congress of the Kuomintang took the place of the People's Congress in formulating government policies. When the National Congress of the Kuomintang was not in session, the political powers were exercised by the Central Executive Committee of the Kuomintang. A Provisional Constitution of the Political Tutelage Period was promulgated on June 1, 1931.

642 session of the Kuomintang called for the convocation of the National Assembly on December 12, 1936. Because of unsettled political conditions, the election of delegates could not be completed in time, and the convocation of the National Assembly was postponed until October 15, 1937.

The Japanese invasion assumed nationwide proportions in July 1937, when several coastal provinces were occupied by the invaders. The national capital was evacuated from Nanking to Chungking. The convocation of the National Assembly becoming impossible, the introduction of a permanent constitution was postponed until the Japanese were defeated.

After the war, a constitutional convention met at Nanking on November 15, 1946. The Constitution of the Republic of China was adopted on December 25, 1946, promulgated by the National Government on January 1, 1947, and scheduled to be enforced on December 25 of the same year. On March 29, 1948, the First National Assembly, composed of 3,048 delegates³ elected by popular vote in accordance

3. The first general election in Chinese history was held on November 21, 1947.

- 642 with the provisions of the new constitution, was convened in Nanking. Chiang Kai-shek was elected president and Li Tsung-jen vice-president. It also approved temporary provisions in the Constitution granting emergency powers to the president during the anti-Communist campaign.

CONSTITUTIONAL RIGHTS OF THE PEOPLE

In the Chinese Constitution, the freedoms, rights, and duties of the people are enumerated in Articles 7 through 21. They follow more or less the British or American Bill of Rights. But martial law, put into effect since May 19, 1948, has restricted to a considerable extent these freedoms.⁴ We shall presently examine the rights of the people as guaranteed by the Constitution and indicate whenever they are affected by the provisions of martial law.

Article 8 of the Constitution protects the freedom of the person. It provides that no person, except in cases of flagrante delicto as provided by law, be arrested or detained except through a judicial or a police agency in compliance with legal procedure. No persons

4. Article 8 of the martial law was revised in 1949 by a presidential order.

640 may be tried or punished except by a law court in accordance with legal procedure. When a person is arrested or detained on suspicion of having committed a crime, the agency executing the arrest and detention shall inform the said person and his relatives or friends of the cause of his arrest or detention and turn him over to a competent court for trial within twenty-four hours. The person under arrest, or any other individual, may also petition a competent court for a writ of habeas corpus, to be issued within twenty-four hours, demanding the surrender of the person under arrest. However, the Chinese Constitution and laws have not expressly provided whether the right of the writ of habeas corpus should be suspended in case of rebellion or invasion, as public safety may require, as provided in the Constitution of the United States.⁵

Article 9 of the Chinese Constitution provides that except for those in active military service, no person may be subject to trial by a military court. Under martial law, a civilian will be subject to military trial if he is under suspicion of having committed a crime against

5. Constitution of the United States of America, Art. I, Sec. 9, Par. 2.

- ~~642~~ The Act of Communist Espionage or the Act of Rebellion.⁶

The inviolability of the domicile and the freedom to change one's domicile are guaranteed by Article 10 of the Constitution, except when a person is domiciled in a military area or in area under compulsory evacuation, as provided by the Air Defense Law.⁷

The Constitution guarantees that the people shall have freedom of speech, freedom of academic instruction, and freedom of publication. A new Press Law was enacted by the Legislative Yuan in April 1952. It provides a system of registration for all publications, including newspapers, magazines, and other printed matter.⁸ It stipulates certain cases in which a publisher shall be punished or his publication shall be suspended, such as to attempt to commit or to incite others to commit, crimes of treason, insurrection,

6. Regulations Governing the Separation of Jurisdiction between Judicial and Military Courts, 1954, Article 2.

7. Air Defense Law, 1948, Article 6.

8. Press Law 1952, Article 9.

642 or espionage; to interfere with the lawful exercise of public functions or voting; to disturb, or to incite others to disturb, public order; and to commit, or to cause others to commit, acts of moral turpitude.⁹ The new Press Law also provides that in time of war or emergency, when the government, as authorized by the Constitution, takes measures to deal with any unforeseen crisis, it may ban or limit the publication of certain items which tend to endanger public security, such as military, political, or diplomatic secrets.¹⁰

The Chinese Martial Law, in force since May 1948, authorizes the military authorities to restrict freedom of speech, academic lectures, newspapers, magazines, pictorial posters, slogans, and other writings and publications deemed harmful to the military cause.¹¹

Article 12 of the Chinese Constitution guarantees the people the freedom of private correspondence. But under martial law,

9. Ibid., Articles 33, 34.

10. Ibid., Article 35.

11. Martial Law, 1948, Article 11.

- 642 mails and telegrams in time of war may be censored or confiscated by military authorities. The correspondence of a prisoner may be censored or barred by the officer in charge of the prison, at his discretion.¹²

Freedom of religious belief is guaranteed by Article 13 of the Constitution. In schools, no course on religion may be required which might be considered as infringing upon freedom of religious belief. Under martial law, any religious activities that may disturb the public order may be banned by the military authorities.¹³

Article 14 of the Chinese Constitution guarantees freedom of assembly and the formation of associations. However, any assemblage may be dispersed or limited by the military in war time.¹⁴ As to the forming of associations, the Chinese government has encouraged the people to exercise this freedom in professional and trade spheres.¹⁵ Trade and labor unions have been established under the patronage of the government. Labor

12. Prison Administration Law of 1947, Article 67, 68

13. Martial Law, 1948, Article 11.

14. Ibid.

15. Wen-jen Tsao, The Constitutional Structure of Modern China, Melbourne University Press, 1948, p. 65.

642 organizations and professional associations are represented both in the National Assembly and the Legislative Yuan.¹⁶ Political parties, if lawfully organized, are given equal status and are allowed equal opportunity to participate in elections. All organizations must be registered with the proper authorities by their sponsors. Whoever joins an association formed with the object of committing or inciting rebellion is subject to imprisonment.¹⁷

641 It is definitely stipulated in the Chinese
533 Constitution that all citizens of the Republic of China, irrespective of sex, religion, race, class, or party affiliation, shall be equal before the law. A minimum quota of seats are reserved for women delegates in all representative bodies.¹⁸ And to insure the election of women candidates, votes cast for them are computed separately. There is no religious or racial discrimination in China. A quota of seats in the National Assembly and the Legislature is expressly reserved for "people living in the interior areas," i.e., the minority races.¹⁹

16. Law of Election and Recall of National Assembly Delegates, 1947, Article 4; and Law of Election and Recall of Legislators, 1947, Article 4.

17. Criminal Code, 1935, Article 154, and Rebellion Act, 1950, Article 5.

18. Constitution, Article 134.

19. Constitution, Article 135.

642 The Chinese Constitution provides that the people be given the right to existence, the right to work, and the right to own property.²⁰ The right of existence implies that the people shall be guaranteed a minimum standard of living. As to the right of work, the state shall provide opportunity of employment to the people who are capable of work, commensurate with their capacity and ability, so that they may render their services to the community and support themselves.²¹ The state shall accord special protection to working women and children who work (Article 153) and shall give assistance and relief to the aged, the infirm, the disabled, and the victims of natural calamities. To promote social welfare, the state shall put into operation a Social Insurance System (Article 155).

651 No one shall be arbitrarily deprived of
408 his property. However, privately owned land
642 and other property are liable to taxation. If any land has an increase in value, through neither the exertion of labor nor the employment of capital, the state shall levy thereon an increment tax, the proceeds of which shall be used for public welfare.²² The government

20. Ibid., Article 15.

21. Ibid., Article 152.

22. Ibid., Article 143.

- 642 may regulate the distribution of land in the
651 interests of the tiller-owner and tenant-
423 cultivators and may limit the amount of land
ownership. 23

642 Under the Chinese Constitution, any
694 citizen has the right to present petitions to
file complaints, or to institute legal proceedings.
The Law of Petition was promulgated on
December 18, 1954. It provides that a person
has the right to voice his opinion concerning
the policy of the government on matters of
public interest to the representative agency or
a competent authority, but the petition must
be in written form and must not interfere with
the exercise of judicial functions. 24 Any
citizen may file a complaint against a wrongful
decision on the part of a government body. The
prescribed procedure is for the injured party
to bring his complaint to a higher government
body such as the provincial government, if
the case is caused by an administrative act on
the part of a hsien or a municipal government.

23. Ibid., These provisions are inserted
in accordance with the equalization of land
ownership, one of the basic policies of Dr.
Sun Yat-sen.

24. Law of Petition, 1954, Articles 2-6.

- 642 If he is not satisfied with the decision of the provincial government, he may file a further
694 complaint with the proper department of the Central Government. If the charge is against a wrongful decision, the decision on the second complaint by a superior government body will be final. But if the complaint is against an unlawful decision or an illegal execution, the dispute may be referred to the administrative court for final judgment.²⁵

- 642 The Chinese Constitution provides that
877 the people shall have the right to receive as well as the obligation to accept public education.²⁶ The state has the responsibility of providing the necessary educational institutions so that all the people may have a chance to receive elementary education; and the state may compel children of school age to attend school. Articles 159 and 160 of the Constitution specify that all citizens shall have an equal opportunity to receive education and that primary education shall be free of charge. Children from poor families shall be supplied with textbooks at the expense of the government.²⁷

25. Law of Administrative Procedure, 1942, Article 1.

26. Constitution, Article 21.

27. Constitution, Article 160.

642 According to Article 23 of the Constitution, all the rights and freedoms enumerated above may not be restricted by law, except in order to prevent infringements upon the freedom of other persons, to avert an imminent crisis, to maintain social order, or to improve general welfare. One condition under which civil liberties may be restricted is during the time of declaration of martial law by the president; another is the exercise of the emergency power granted the president in the temporary provisions adopted by the first session of the National Assembly.

SUFFRAGE AND THE RIGHT TO
HOLD OFFICE

666 Any citizen of the Republic of China over
642 twenty-years of age has the right to vote. All elections stipulated in the Constitution, except as otherwise provided, shall be universal and by secret ballot.²⁸

Any citizen over the age of twenty-three years has the right to be elected to office, except as otherwise provided by law. All candidates in the election prescribed by the Constitution shall openly campaign for election. Intimidation and material inducement

28. Ibid., Article 129.

~~646~~ are strictly forbidden, and disputes concerning
~~642~~ elections shall be settled by the courts

- (Articles 130-33). The delegates to the National Assembly and members of the Legislative Yuan are elected directly by the people; but the president and vice-president are elected by the National Assembly, and the members of the Control Yuan are elected by the provincial and municipal assemblies. In local elections of 1950 and 1953-54 on Formosa, the magistrates, mayors, and members of the provincial hsien and municipal assemblies were directly elected by the people in secret ballot. The Constitution also provides that a person after being elected may be recalled by the constituency (Article 133). Beside the rights of suffrage and recall, the people also possess the rights of initiative and referendum. However, although the Constitution states that the exercise of the rights of initiative and referendum shall be prescribed by law (Article 136), no law in this regard has been promulgated.

~~647~~ In the selection of public functionaries, the Constitution specifies that a system of competitive examinations shall be enforced, quotas of candidates shall be prescribed severally according to provinces and areas, and examinations shall be held by regions. No person may be appointed to a public office unless he has been qualified through

64784 persons passed the higher examination and 216 passed the general examination. Other examinations were held for postal clerks, telegraph operators, engineers, and other postal personnel. Those who passed these examinations were eligible for promotion. Telegraph and other public utilities are state enterprises and their employees are considered public functionaries.

INTERPRETATION AND AMENDMENT
OF THE CONSTITUTION

642 In a democratic country, the most important function of a written constitution is to safeguard the political or public rights of the people. Although the rights and freedoms of the Chinese people are defined in the Chinese Constitution, there is no well-established glossary of legal concepts. For example, just what is meant by "freedom of speech?" What are its dimensions and how far may it be restricted? Such questions will continually demand renewed discussion. Since the Constitution provides that individual freedoms and rights may not be curtailed or restricted by legislation, except in consideration of the social interest and general welfare (Article 23), we must ask what, exactly, constitutes "social interest" and "general welfare"? It is obvious that the guaranty of freedom may be infringed upon if the meaning and scope of social interest

• 42 or general welfare are not judicially established and defined.³¹ Hence how the Constitution is interpreted is of paramount importance.

In Article 173 of the Constitution, it is provided that the "interpretation of the Constitution shall be undertaken by the Judicial Yuan." Laws that are in contravention of the Constitution shall be null and void. When doubt arises as to whether or not a certain law is in contravention of the Constitution, the Judicial Yuan is to render its opinion thereon.³²

Amendments to the Chinese Constitution may be made in the following manner. When the National Assembly is in session, an amendment may be proposed by one-fifth of the total number of the delegates to the National Assembly and it must be passed by three-fourths of the delegates present at a meeting having a quorum of two-thirds of the entire Assembly. When the National Assembly is not in session, an amendment may be drawn up

31. Kwan-sheng Hsieh, A Brief Survey of the Chinese Constitution, Taipei, China, Cultural Service, 1954, pp. 45-46.

32. Constitution, Article 171.

642 and submitted to the National Assembly for consideration at its next session by the Legislative Yuan. Such an amendment must be proposed by at least one-fourth of the members of the Legislative Yuan and resolved by three-fourths of the members present at a meeting having a quorum of three-fourths of the members of the entire Legislature. The proposed amendment to the Constitution is to be published at least six months before the convocation of the National Assembly.³³

33. Ibid., Article 174.

Annex "A," Subparagraph 2b.1,
Political Background

STRUCTURE AND FUNCTIONS OF THE
CHINESE NATIONAL GOVERNMENT

642
186 The Chinese Nationalist Government is a democratic republic. The national flag has a red background which denotes the spirit of liberty and sacrifice; a white sun with twelve points, which represent twelve hour-periods of day, symbolizing unceasing progress, and a blue sky which signifies equality and justice for all.

I. THE NATIONAL ASSEMBLY

646 The existing Chinese government derives its powers from the National Assembly which, according to the Constitution, exercises political powers on behalf of the people. (A chart showing the organization of the Chinese national government is appended at the end of the present chapter.)

The delegates to the National Assembly are elected on the basis of regional and vocational representation. There should be at least one delegate from each hsien or municipality. When the population of a hsien or a municipality exceeds 500,000, there should

III. THE FIVE GOVERNMENT DEPARTMENTS

- 642. One of the special features of the governmental organization of the Republic of China is that, instead of the conventional three political divisions in Western countries representing the legislative, executive, and judicial powers, the National Government of China has five branches. The two additional departments are in charge of the censorial power or the power of impeachment, and the power of examination or the power of regulating the personnel of the government. For tens of centuries preceding the establishment of the Republic, "while the emperor, as the sources of all powers, was the only person rightfully to exercise the legislative, executive, and judicial powers, the power of examination and the power of impeachment, however, were exercised by his Ministers in a way independent of him, to insure an efficient and honest government."⁶ Dr. Sun Yat-sen, founder of the Chinese Republic, pointed out in his Fundamentals of National

6. Hsieh Kwan-sheng, A Brief Survey of the Chinese Constitution, Taipei, China Cultural Service, 1954, p. 4.

642 Reconstruction⁷ that it had been an admirable system and should be preserved in the new Constitution of China. Therefore the framers of the Chinese Constitution have carefully worked out a new system of the division of powers, slicing out of the legislative branch the power of impeachment and out of the executive branch the power of examination of civil servants and delegating those powers to two independent branches of the government. Thus, the Chinese national government has five departments -- the Legislative, the Executive, the Judicial, the Censorial (named Control Yuan), and the Examination Yuan.⁸ These five branches of the national government represent five independent political functions from which the new Constitution of China is known as the "five-power constitutional system."

A. The Legislative Yuan

646 The Legislative Yuan is the highest law-making organization in Nationalist China.

7. Sun Yat-sen, Fundamentals of National Reconstruction (English translation), Taipei, China Cultural Service, reprint 1952, p. 38.

8. Yuan, literally meaning a hall, court, or college, is a government department on the highest level.

C. The Judicial Yuan

692 The functions of the Judicial Yuan

642 according to the Constitution¹⁸ are: (a) the

- interpretation of the Constitution and other laws and decrees; (b) the adjudication of administrative suits and disciplinary punishment of public functionaries. In other countries the last-named functions -- jurisdiction over administrative cases and disciplinary actions against government employees -- normally fall within the authority of the administration.

The President and Vice-President of the Judicial Yuan are nominated and appointed by the President of the Republic with the consent of the Control Yuan. They with a number of Grand Justices form the Council of Grand Justices.¹⁹ The Council of Grand Justices is charged with the power and responsibility of interpreting the Constitution. It is also concerned with the interpretation of laws and ordinances with a view to adjusting

18. Constitution 1947, Articles 77 and 78.

19. According to Article 3 of the Organic Law of the Judicial Yuan, the Council of Grand Justice is to be composed of seventeen judges of high standing. Twelve of them were appointed in 1948 but only two accompanied the National Government to Formosa. Seven new justices were appointed in 1952.

692 differences and bringing about their uniform
642 application. The tenure of office of a Grand
Justice is nine years.

692 Under the Judicial Yuan there are the
Supreme Court, the Administrative Court,
and the Committee on the Discipline of Public
Functionaries. The judicial system in China
is based upon the principle of three trials in
three grades of courts -- the District Court,
the High Court, and the Supreme Court. The
Supreme Court is the highest tribunal of the
land. It consists of a number of civil and
criminal divisions,²⁰ each of which is formed
by a presiding judge and four associate
judges. The judges are appointed for life,
and they are above party affiliations.²¹

The Administrative Court is concerned
with legal proceedings against government
agencies. Any individual who is convinced that
his proper rights or interests have been
injured by an unlawful decision or act of a
government agency, and who has failed to
receive satisfactory redress from the superior

20. Before the removal to Formosa it had
thirteen civil divisions and fourteen criminal
divisions. At present it maintains three civil
divisions and two criminal divisions.

21. Constitution, 1947, Articles 80 and 81.

STRUCTURAL CHART OF THE CHINESE NA

642 National Assembly

First session 1946 — 3,045

delegates

second session 1954 — 1,578

delegates

President of the Republic of
China

Chiang Kai-shek

Vice-President — Chen ChengThe Executive Yuan

President — C. K. Yui

Vice-President — Huang

Shao-ku

Executive Yuan Council

The President and Vice-

President of the Yuan,

the 10 ministers of

State and 5-7 Ministers

without portfolio

OverseasAffairsCommission

Chairman —

Cheng Yin-fun

Non-Chinese andTibetan AffairsCommission

Chairman: Lin

Lien-ke

Judicial Yuan

President — Wang

Chung-hui

Vice-President —

Hsieh Kuan-sheng

Supreme CourtHigh CourtsDistrictMinistry ofEconomic Affairs

Minister — Kiang

Piao

Ministry ofFinance

Minister —

Hsu Feh-yuan

Ministry ofof ForeignAffairs

Minister —

George H.C.

Yeh

vincial Governments and
icipalities under the direct
isdiction of the Executive

on and city governments

[Facing p. 372 - part a]

642 THE CHINESE NATIONAL GOVERNMENT

Committee on the Discipline of Public Functionaries					Cou Jus Pre Pre
District Courts					
<u>Ministry of of Foreign Affairs</u>	<u>Ministry of Interior</u>	<u>Minister of Defence</u>	<u>Ministry of Education</u>	<u>Ministry of Communications</u>	M M
Minister - George K.C. Yeh	Minister - Wang Teh-pu	Minister - Yu Ta-wei	Minister - Chang Chi-yun	Minister - Yuan Shou-chien	

[Facing p 372 - part 6]

• 642

National Assembly
first session
delegates
second session
delegates

President of
Chiang Kai
Vice-President

Control Yuan
President - Yu Yu-jen
Vice-President - Liang
Shang-tung
Total membership - 223
Current membership in
Formosa - 155

Examination Yuan
President - Moh Teh-hui
Vice-President - Wang
Yun-wu
Council of the Examination
Yuan
The President and Vice-
President of the yuan
and 19 Examining
Commissioners

The Executive
President
Vice-President
Shao-
The President
the 10
State
without

Ministry of
Audit

Ministry of
Personnel
Minister -
Ley Fa-tsang

Ministry of
Examination
Minister -
Shih Shang
Kwan

Overseas
Affairs
Commission
Chairman -
Cheng Yiu-fun

Provincial Assemblies
and Assemblies of
Municipalities and
the Executive Yuan

Provincial Government
Municipalities under
jurisdiction of the
Yuan

Hsien and city councils

Hsien and city govts

[Facing p. 372 - part c]

642

Legislative Yuan

President - Chang Tao-fan
Vice-President - Huang-Kuo-shu
Total membership - 773
Actual in Formosa at present
523

Discipline
series

Council of Grand

Justices

President and Vice-
President of the Yuan and 17 Grand Justices

Actual in Formosa
9 Grand Justices

Ministry of

Education

Minister-

Chang Chi-yun

Ministry of

Communications

Minister -

Yuan Shou-chien

Ministry of Justice

Minister - Ku Feng-

hsiang

[Facing p. 372-part]

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Annex "A," Subparagraph 2c,
Political Background

POLITICAL DYNAMICS

642 On Formosa, "Chiang Kai-shek still runs a one-party government, and, in many respects, a one-man government. He is the President of China, Director-General of the Kuomintang, and Commander in Chief of the armed forces."¹

Ever since the second century B.C. China has been a unified country with a centralized government which might be a benevolent or malevolent autocracy, but the highly centralized policy has held the vast Chinese nation intact for thousands of years. Only during the years when the central government was weak, in times of chaos that the provincial governments asserted their power beyond limits. Dr. Sun Yat-sen remarked in his San-min Chu-i [Three People's Principles]: "The different provinces in China were always under one central government. They were not separate states, neither are they now in such a different position that unified rule is less possible. History tells us

1. "Man of the Single Truth" Time, Vol. 65, No. 16, April 18, 1955, p. 32.

642 that whenever the country was unified, we had
a time of peace and tranquility, and whenever
the country was split, we had anarchy."²
Federal system, such as existing in the United
States, in which vast powers are reserved to
the local constituents, is alien to the Chinese
conception of government.

642 It is true that the Constitution of the
63/ Republic of China has devoted five articles³
to the enumeration of the powers of the
central and local governments, but it does
not attempt to define the relation between the
central and local governments. What those
articles attempt to do is the distribution of
administrative duties among the different
levels of government according to expediency
or convenience. Generally speaking
administrative duties are distributed on the
principle that whatever can most efficiently
be done by the central government will be
distributed to the central government. Pro-
vincial and hsien governments handle only
matters of local interest and anything else that

2. Dr. Sun Yat-sen: Discourse on Democracy,
San-Min Chu-i [The Three People's Principles] .

3. Constitution 1947, Articles 107-111.

642 the central government may assign to them.
631 The central government has the power of re-demarcating the administrative divisions of the country at any time. For instance, before the last world war, Manchuria consisted of three provinces, but after the war the number of provinces was changed to nine. In normal times, the central government retains legislative and supervisory powers over practically all matters, and so far no occasion has arisen to call for the redefining of relations between the national and local governments.

631 On Formosa, since the loss of
635 Mainland China to Communism, a peculiar situation has been in existence. Taiwan Province has become the only territory over which the national government of the Republic of China exercises effective control. Two levels of governmental mechanism -- the central government and the provincial government -- have been operating side by side. Except the departments of foreign affairs and defense, administrative functions of all other departments of the central government are overlapping with those of the provincial government. Many foreign visitors are under the impression that most of the administrative powers of the provincial government are being exercised directly by the central government and that only limited residual powers are left to the provincial government. But the facts do not seem to

was that the Taiwanese were accustomed to the peace and order of a country under a foreign tyranny, and could not, at first, understand the "lack of uniformity" and "the complexities" of democratic rule (thanks to the Japanese, on the other hand, they had no illusions about or yearnings after Communism). Finally, the men who governed Taiwan immediately after the retrocession gave every evidence of being more interested in increasing their power and lining their pockets than in providing good management. When, therefore, the Nationalist government moved to Taiwan in 1949, it found that it had taken on numerous grave local problems in addition to those it had brought with it from the mainland.

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Political Reform

The Kuomintang, the leading political party, prepared itself to deal with these problems by putting itself through a reorganization. Its younger, more liberal leaders were, to this end, appointed to a Central Reform Committee, the main task of which was to strengthen and tighten party organization and eliminate corrupt elements, opportunists, and bureaucratic politicians. On 1 September 1950, the Nationalist government was ready to announce a new political program. Its objectives were to

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encourage private enterprise to the extent of avoiding monopolistic combinations and to transfer government-operated light industries to private ownership; to establish a democratic industrial system in which the workers' welfare is safeguarded by allowing them a share and a voice in the ownership and management of private enterprise; to promote the interests of tenant farmers and farmers through land reform, water conservancy, and land reclamation; to carry out local self-government and to protect civil rights.

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Local self-government and land reform were the fields in which the government brought about the most spectacular changes. It first removed all the social barriers and segregation measures that had been created and maintained by the Japanese. The native Taiwanese were no longer barred from institutions of higher learning, or from the worthwhile positions in commerce and politics. They were encouraged to participate in local self-government, and to think for themselves. By 6 May 1951, 21 mayors and magistrates in 16 counties and 5 municipalities had been elected to their respective offices by popular vote. There are now 6304 village and *li* (comparable to urban wards) assemblies, in which the Taiwanese are learning the art of self-government. Representing them in town and district assemblies are 8024 village and *li* delegates. On the county and municipal levels, there are about 541 popularly elected councilmen. Of an estimated 2,650,000 qualified men and women voters, some 2,416,072 are registered. In keeping with the government's policy of economy, the total number of government employees was reduced in June, 1950 to \$1,000. The percentage of indigenous citizens in the government service rose to 65.46 percent.

There has also been a marked change in the importance and responsibility of the posts held by Taiwanese. In the category of first class officials, indigenous personnel have increased from 0.92 percent under Japanese rule to 17.45 percent in the present government. In the category of second class officials, indigenous personnel rose from 1.29 percent to 26 percent.

Land Reform

The other outstanding reform accomplished by the government has been the carrying out of a new land reform program, which has greatly benefited the lot of the farmers, who are no less than 60 percent of the population. For the 70 percent of the farmers who are

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Nationalist Government Policies, 1949-1951

By GUNG-HSING WANG

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665 THE political pattern of Nationalist China in contemporary Taiwan (Formosa) is set by a series of events which took place between January 21, 1949 and March 1, 1950. The first was the date on which President Chiang Kai-shek "stepped down" from office to clear the way for a negotiated peace with the Communists. Advocated by the peace party and the moderates within the Kuomintang (KMT) and backed by popular support, the attempt failed in the face of mounting Communist military successes. During the interval, Acting President Li Tsung-jen steered the ship of state against overwhelming odds of financial, military, and political difficulties. His administration was inconclusive when in November 1949 he left for the United States for reasons of health.

Succumbing to the circumstances, a dual process, characterized by the transfer of top-ranking Nationalist personnel, armed forces, and financial assets to Taiwan and a partial disintegration of the KMT, dominated the Nationalist political sky. Of the former, the transfer began with the appointment of General Chen Cheng as Governor of Taiwan on January 5, 1949. It reached a climax on December 7, 1949, when the seat of the National Government was established in Taiwan. The process was completed on March 1, 1950 when President Chiang Kai-shek announced his resumption of office.¹ With reference to the disinte-

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NOTE: Citations and references marked with an asterisk (*) refer to Chinese-language sources.

¹ For constitutional provisions regarding presidential term of office, see The Constitution of The Republic of China, 1947, Arts. 47,

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665 youth, intellectuals, and agricultural and industrial workers. It commands the party members to go to the masses and work for their well-being.⁷

A new political program was announced on September 1, 1950.⁸ Its general objectives are to restore national sovereignty and to put democracy into practice. Specifically, it proposes: (1) to encourage private enterprise to the extent of avoiding monopolistic combinations and to transfer government-operated light industries to private ownership; (2) to establish a democratic industrial system in which workers' welfare is safeguarded by allowing them a share and a voice in the ownership and management of private enterprises; (3) to welcome foreign investment and technical co-operation; (4) to promote the interests of tenant farmers and farmers through land reform, water conservancy, and land reclamation; (5) to carry out local self-government and to protect civil rights; and (6) following restoration of mainland China, to punish Communist leaders, to extend amnesty to those who follow them under duress, and to allow farmers to continue tilling the land they have been tilling.

RELATIONS BETWEEN NATIONAL AND PROVINCIAL GOVERNMENT

642 The practical effects of the program may be reflected in varying degrees by what has been taking place in Taiwan.⁹ Organically speaking, the National Government looks after foreign affairs, national defense, the administration and adjudication of national laws, national revenues, and foreign trade policies. The powers of the provincial government consist of those which are inherent

⁷ Ibid.

⁸ *The Present Political Platform of the Kuomintang*, Taipei: Government Spokesman's Office, Sept. 1950.

⁹ Taiwan: population, 7,026,883 (1949); area, 35,961 sq. km. For other essential facts, see *China Handbook 1950*, pp. 33-39.

and those which are delegated to it by the central government. Such matters as local self-government, division of administrative areas, forestry, industry, mining and commerce, educational system, banking, commodity control, navigation, public enterprises, land registration, and police system are legislated by the central government and may be delegated to the provincial authorities for execution. Matters pertaining to agriculture, commerce, industry, education, finance, taxation, and enterprises and co-operatives which are provincial in nature may be legislated by the provincial government.¹⁰ In actual practice, important legislation concerning Taiwan is enacted by the National Government and administered by the provincial authorities.

The Taiwan Provisional Assembly, functioning as constituted May 1946, exercises a limited range of legislative powers. It considers "administration policies and activities and the provincial budget." Pending its development into a constitutional representative body, its decisions are subject to the veto of the National Government.¹¹

The Governor of Taiwan is appointed by the Nationalist Government. Under him are various departments, bureaus, agencies, and province-operated enterprises. To draw an over-all picture of specific Nationalist policies pertinent to political, economic, social, and military activities on the island, the following analysis, necessarily brief, may be helpful.

ADMINISTRATIVE STRUCTURE

The political organization of Taiwan follows a pattern of centralization, using

¹⁰ For the division of powers, see Constitution of the Republic of China, Arts. 107-109.

¹¹ For details regarding the Assembly, see Chinese Constitution, Arts. 112-120; also Han Lih-wu, *Taiwan Today*, Taipei, 1950—quotation at pp. 31-32.

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